

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BRIAN O'TOOLE,	)	
Petitioner,	)	
	)	
v.	)	
	)	2:05-cv-1365
HARRY WILSON,	)	
Respondent.	)	
	)	

O R D E R

AND NOW, this 26<sup>th</sup> day of October, 2005, after a petition for a writ of habeas corpus was filed by the petitioner, Brian O'Toole, and after the Report and Recommendation of the United States Magistrate Judge was issued, and the petitioner was granted ten days after being served with a copy to file written objections thereto, and no objections having been filed, and after independent review of the petition and the record, and upon consideration of the Report and Recommendation of the Magistrate Judge, which is adopted and incorporated as the opinion of this Court,

IT IS ORDERED that the petition of Brian O'Toole for a writ of habeas corpus is dismissed, and that a certificate of appealability is denied, as the petition is time-barred.

IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the F.R.App.P., if the petitioner desires to appeal from this Order, he must do so within thirty (30) days by filing a notice of appeal as provided by Rule 3 F.R.App.P.

BY THE COURT:

s/ Terrence F. McVerry  
United States District Judge

cc: Brian O'Toole  
DX-1524  
SCI Fayette  
P.O. Box 9999  
LaBelle, PA 15450

Honorable Robert C. Mitchell  
United States Magistrate Judge